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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/661,994

09/12/2003

Douglas W. Reitz

F8-6068

9335

44926

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11/13/2006

EXAMINER

LITHGOW, THOMAS M

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DEERFIELD, IL 60015

ART UNIT

PAPER NUMBER

1724

DATE MAILED: 11/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/661,994

Applicant(s)

REITZ ET AL.

Examiner

Thomas M. Lithgow

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17, 19-22 and 48-59 are is/are pending in the application.
- 4a) Of the above claim(s) 56-59 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17, 19-22, 48-52, 54 and 55 is/are rejected.
- 7) ☒ Claim(s) 53 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-9, 13-17, 49-52 and 54-55 are rejected under 35 U.S.C. 102(b) as being anticipated by Meyst (US 4157967). Meyst '967 discloses a blood filter having opposed housing members, which are sonically bonded together in a tongue and groove arrangement (see fig. 2 (postwelded) and fig. 4 (prewelded)). Figure 4 illustrates the use of a plastic ridge 56 extending from the groove on flange 22. The flange 24 (tongue) first contacts the ridge 56 (shoulder) and eventually will bond with the ridge as the flanges 22,24 move closer together to achieve the final position of bond as illustrated in fig. 2. Applicant asserts that Meyst '967 fails to disclose a "compound removal device" and thus claim 1 is not anticipated. This is not persuasive. Meyst '967 discloses a filter that removes "microemboli of aggregated blood products" [col. 1, lines 13-15] which

products are known to be "compounds". Applicant has not defined in his specification a special definition of "compound removal device" and it appears that such language, absent such a special definition, would be given its ordinary and customary meaning. A filter as disclosed by Meyst '967 meets this limitation. In regard to claim 48, applicant has presented a broad argument alleging that none of the disclosed prior art discloses a removal medium with an impermeable barrier. To the contrary, Meyst '967 specifically discloses the preformation of such an impermeable edge barrier (aka nonporous peripheral flange) by heat sealing [col. 1, lines 53+ and fig. 3] the filter media prior to assembling the final filtration device.

3. Claims 1-6, 9,13-17, 49-52 and 54-55 are rejected under 35 U.S.C. 102(b) as being anticipated by Guala (US 6086765). Guala '762 discloses a fluid filter with opposed bonded housing portions [col. 5, line 59] and a filter 6 there between. The groove formed in the first connector 2 is shown to have a shoulder therein (see fig. 2). In regard to claim 49, the bonded housing portions define an impermeable barrier to prevent bypassing of the liquid around the filter. Claim 49 merely calls for the removal medium to be "in contact with a liquid impermeable barrier". This broadly reads on the bonded housing units.

4. Claims 19-21 and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Emheiser (US 4906260). Emheiser '260 discloses a flow-through device including a housing 1 having two sidewalls defined by housing sections 5 and 6. Housing section 5 has an inlet connector 7 angled at 90 degrees to the sidewall and housing section 6 has an outlet connector 17 angled at 90 degrees to the second wall. The outlet connector 17 is above the inlet connector as illustrated in fig. 3 (Emheiser) and recited in claim 19.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meyst '967 as applied to claim 1 above, and further in view of Rosenberg (US 4326957). The use of polymethyl methacrylate (PMMA) as a housing material for a blood/IV filter is taught by Rosenberg '957 [col. 6, lines 11+]. Rothenberg's housing parts are ultrasonically bonded [col. 9,

lines 44+] in a manner similar to Meyst '967 [col. 5, line 40+]. As such, it would have been obvious for one of ordinary skill in the art at the time of the invention to employ well-known thermoplastic materials (PMMA) to form the housing of Meyst '967 as taught by Rosenberg '957.

7. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meyst (US 4157967) as applied to claim 8 above, and further in view of Pall (US 5458719). The bonding of a porous filter media to the underlying surface ribs in a liquid filter is taught by Pall '719. Such a technique allows a positive connection joint between the filter and the support so as to tolerate very high shear forces [col. 1, lines 25-26]. To modify Meyst '967 with such a feature would have been obvious to one of ordinary skill at the time of the invention in view of Pall's express teaching of enhanced shear tolerance.

8. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Emheiser '260 as applied to claim 19 above, and further in view of Hei (PGP 2001/0009765). Hei '756 discloses the use of plural stage filter device having three nested filters 3-5 (see fig. 14) mounted in a fluid filter device which has opposed sealed housing portions and at least one of the stages is a sorbent in a binder as recited in claim 22. To so modify

Emheiser '260 with the taught features of Hei '756 would have been obvious to one of ordinary skill at the time of the invention who seeks to remove the specific compounds disclosed in Hei '756 from the blood prior to reinjecting the blood back into the patient by employing the specific filter media of a sorbent with a plastic binder.

***Response to Arguments***

9. Applicant's arguments filed 22 August 2006 have been fully considered but they are not persuasive. Applicant's arguments have been addressed individually in the body of the rejections.

***Allowable Subject Matter***

10. Claim 53 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE**

**FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas M. Lithgow whose telephone number is 571-272-1162. The examiner can normally be reached on Mon. -Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571-272-1166.



The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read "T. M. Lithgow", with a long, sweeping horizontal line extending to the left.

Thomas M. Lithgow  
Primary Examiner  
Art Unit 1724

TML